(1)

Supreme Court, U.S.
FILED

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No.

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IN THE

Supreme Court of the United States

JAMES G. AKERS,
Petitioner,

v.

CAROLYN P. BISHOP, *et al.*

On Petition For Writ of Certiorari
To The United States Court of Appeals
for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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Nashville, Tennessee 37220
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QUESTIONS PRESENTED FOR REVIEW

I - Whether the "ends of justice" require re-transfer of venue back to United States District Court for Middle Tennessee District-Nashville Division;

II - Whether the lower Courts abused Their discretion by refusing to "GRANT" Akers' "Demand for Judgement by Default" & "Motion for Partial Summary Judgement";

III - Whether the lower Courts erred by applying the *Heck v. Humphrey* and the *Rooker-Feldman* Doctrine as grounds for dismissal of the entire case for "failure to state a claim";

IV - Whether the lower Courts erred by applying various immunities as grounds for dismissal of the entire case;

V - Whether the lower Courts erred by Their application of the doctrines of "collateral estoppel" / *res judicata* as grounds for dismissal of case for "failure to state a claim";

VI - Whether the lower Courts abused Their discretion by refusing to properly apply the required "standard of review" with respect to Defendants' "Motion(s) to Dismiss";

VII - Whether the lower Courts abused Their discretion in the denial of Akers' fundamental rights to trial by a jury as the ultimate "finder of fact".

VIII - Whether the herein case should have, alternatively, been held "in abeyance" pending filing and disposition of Akers' "Petition for Writ of Prohibition" and/or Petition for Writ of Mandamus with this Honorable Court, seeking to set aside his convictions as unconstitutional.

IX - Whether the Sixth Circuit Court of Appeals abused Its discretion by refusing to accept Akers' "Petition for En Banc Determination" and subsequent "Motion for Reconsideration" pursuant to F.R.A.P. 26(a) & (c), F.R.A.P. 40(a)(1), 6 Cir. R. 45(b), and the "Due Process Clause' of the Fourteenth Amendment to the United States Constitution.

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(p) FCC Does 1 through 10 [known only as a group of individual "persons" at the Office of the Fayette (Kentucky) Circuit Court Clerk, Lexington, Kentucky, "associated-in-fact" and as of yet unidentified pursuant to discovery herein];

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STATEMENT OF JURISDICTION
[Pursuant to Supreme Court Rule 14(e)(i), (ii), (iv), & (v)]

Pursuant to ARTICLE III-§ 2, United States Constitution, this Honorable Court has exclusive appellate jurisdiction with respect to each an every one of those lower court decisions as depicted within "**CITATION OF OFFICIAL OPINIONS & ORDERS**", set forth immediately hereinabove.

JURISDICTION (U. S. DISTRICT COURT)
[Pursuant to Supreme Court Rule 14(g)(ii)]

The civil case from which the within "Petition for Writ of Certiorari" arises involves violations of Federal Law – some of which originated in Kentucky resulting in violations within Tennessee and, conversely, some originating in Tennessee and resulting in violations within Kentucky. Neither the State or Federal Courts within the states of Tennessee or Kentucky have both personal jurisdiction over all the parties and subject matter jurisdiction over all the issues.

Therefore, the Federal Courts have exclusive jurisdiction to hear and adjudicate this case pursuant to provisions of TITLE 18 U.S.C. § 1964(c), TITLE 18 U.S.C. § 1965(b), TITLE 42 U.S.C. § 1983, & TITLE 42 U.S.C. § 1985(3); and this Honorable Supreme Court of the United States of America has exclusive jurisdiction to hear and adjudicate the within "Petition for Writ of Certiorari", and consider all matters with respect thereto, pursuant to ARTICLE III-§ 2 of the United States Constitution inasmuch as the U. S. Court of Appeals for the Sixth Circuit has already disclaimed jurisdiction in Its "OPINION" and "ORDER" entered January 24, 2002 [*id.*]. There is no other tribunal in which to obtain the relief requested herein.

United States District for the Middle Tennessee District-Nashville Division, had both jurisdiction and venue pursuant to the provisions of TITLE 18 U.S.C. § 1964(c); TITLE 18 U.S.C. § 1965(b); TITLE 42 U.S.C. § 1983; & TITLE 42 U.S.C. § 1985(3).

INTRODUCTION

THE PETITIONER, James G. Akers, **without counsel**, seeks a writ of certiorari from this Honorable Supreme Court of the United States of America - thereby remanding Akers' "CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(c); TITLE 42 U.S.C. § 1983; & TITLE 42 U.S.C. § 1985(3)" as filed in United States District Court for the Middle Tennessee District-Nashville Division, on November 21, 2000 [Case No. 3:00cv1142] back to that Court with instructions that venue shall remain therein, for full adjudication of all matters with respect thereto, for those reasons hereinafter set forth. **Alternatively, and in a separate action**, Akers will seek a writ of mandamus directing the United States Court of Appeals for the Sixth Circuit to honor the provisions of F.R.A.P. 26(a) & (c), F.R.A.P. 40(a)(1), 6 Cir. R. 45(b) **in conjunction with** the "Due Process Clause" of the Fourteenth Amendment to the U. S. Constitution.

On November 21, 2000, the Plaintiff-Appellant, James G. Akers (hereinafter "Akers"), without counsel, and in strict accordance with Title 28 U.S.C. § 1654, filed his "CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(c); TITLE 42 U.S.C. § 1983; & TITLE 42 U.S.C. § 1985(3)", [D.E. #1] together with Akers' extensive and contemporaneous "MEMORANDUM & MEMORANDUM OF LAW" ["EXHIBIT USSC-11" hereto] and contemporaneously-filed "APPENDIX/RELEVANT EXHIBITS" (hereinafter "Akers Complaint"; "Akers' Memorandum"; & "Akers' Appendix", respectively) in the United States District Court for the Middle Tennessee District-Nashville Division. Jurisdiction was asserted pursuant to provisions of the Federal Statutes themselves; and venue was asserted on the basis that "the prevailing acts" as alleged in Akers' Complaint had taken place within the Federal District of Middle Tennessee District-Nashville Division. "Diversity of citizenship" of the parties, at most, a secondary consideration.

The within Petition for Writ of Certiorari follows the Sixth Circuit Court of Appeals' "ORDER" entered May 2, 2003, affirming dismissal of the **entire case** "**with prejudice**" by the United States District Court for the Eastern District of Kentucky-Lexington Division.

STATEMENT OF THE CASE

The factual allegations within Akers' Complaint, when coupled with applicable Constitutional, Statutory, and Common Laws of the United States of America and those "authorities" in support thereof as cited in Akers' Memorandum, will speak for themselves. Not even a single Defendant has attempted to controvert even a single averment and, in fact, they can not do so without placing themselves in peril of yet further sanctions and/or penalties under Federal Law. The "merits" of Akers' herein case are not even arguable.

The following are edited excerpts[2] from Akers' "CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(c); TITLE 42 U.S.C. § 1983; & TITLE 42 U.S.C. § 1985(3)" [Case No. 3:00-1142] as filed on November 21, 2000, in United States District Court for the Middle Tennessee District-Nashville Division.

> COUNT ONE - CONSPIRACY
>
> In about mid-July, 1993, in Fayette County, Kentucky, Defendants Pamela Miller, Katherine Witt, and LFG Does 1 thru 50 (known only as that group of individual "persons" and/or "public officials" within the Lexington-Fayette Urban County Government, "associated-in-fact") jointly devised, implemented, and effectuated a "conspiracy" in violation of TITLE 42 U.S.C. § 1985(2) & (3), *inter alia*, to unlawfully deprive that "class of persons" which included Plaintiff Akers of rights, privileges, and/or immunities secured by, *inter alia*, the Fourth, Fifth, & Fourteenth Amendments to the United States Constitution in that manner set forth in...¶¶E-12 and corresponding FN41 thereto of Akers' Memorandum; and which said "conspiracy" ultimately resulted in a "chain conspiracy" in furtherance thereof as detailed in hereinafter "COUNTS TWO, THREE, FOUR, TWELVE, & TWENTY-TWO"; and which "chain

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[2] Edited for clerical errors only and for format required by U.S .S.Ct. Rule 33.

conspiracy" ultimately resulted in commission of those "overt acts" as detailed in hereinafter "COUNTS FIVE, SIX, SEVEN, EIGHT, NINE, TEN, & THIRTEEN"; "unlawful imprisonment" as detailed in hereinafter "COUNTS ELEVEN & FOURTEEN"; and which "conspiracy", "chain conspiracies", "overt acts", and "unlawful imprisonment" ultimately resulted in injuries to Akers in his person and property as detailed in hereinafter "COUNTS TWENTY-FOUR & TWENTY-SIX".

COUNT TWO - CHAIN CONSPIRACY

At some time shortly following August 25, 1993, in Fayette County, Kentucky, herein Defendants Bishop, Fleming, Rushing, and CBT Does 1 thru 40 (known only as that group of "persons" at Central Bank & Trust Company, Inc., and herein "associated-in-fact"), jointly devised a "chain conspiracy" in violation of TITLE 18 U.S.C. § 1985(2) & (3), *inter alia*, in the furtherance of that "conspiracy" detailed in hereinabove "Count One", to unlawfully and/or unconstitutionally deprive Plaintiff Akers of his rights, privileges, and/or immunities secured by, *inter alia*, Article 1-Section 10 [Cl.1], & Article IV-Section 2 [Cl.1] of the United States Constitution in conjunction with the Fourth, Fifth, & Fourteenth Amendments thereto, in that manner as set forth in...¶¶E-12, E-13, E-14(d), E-16, E-17, E-23 through E-27, E-29, E-31 through E-36, E-38 through E-41, E-43, E-44, E-47, E-48, E-50(e), & E-50(f) with all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which said "chain conspiracy" ultimately resulted in commission of those "overt acts" as detailed in hereinafter "COUNTS FIVE, SIX, SEVEN, EIGHT, NINE, TEN, & THIRTEEN"; "unlawful imprisonment" as detailed in hereinafter "COUNTS ELEVEN & FOURTEEN"; and injuries to Akers in his person and property as are detailed in hereinafter "COUNTS TWENTY-FOUR through TWENTY-SEVEN".

COUNT THREE - CHAIN CONSPIRACY

On, or about, April 8, 1994, in Fayette County and/or Jessamine County, Kentucky, Defendants Layne and Shannon joined in the furtherance of that "chain conspiracy" as detailed in hereinabove "COUNT TWO" by committing specific "overt acts" in the furtherance thereof and in that manner set forth in...¶¶E-24 through E-27, E-29, E-31(a), E-31(b), E-31(c), E-34, E-38, E-40, E-43, E-44, & E-50(e) together and all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which said "chain conspiracy" ultimately resulted in the commission of those "overt acts" as detailed in hereinafter "COUNTS FIVE, SIX, SEVEN, EIGHT, NINE, TEN, & THIRTEEN", respectively; the "unlawful imprisonment" of Akers as detailed in "COUNTS ELEVEN & FOURTEEN" hereof; and injuries to Akers in his person, property, and businesses as detailed within hereinafter "COUNTS TWENTY-FOUR through TWENTY-SEVEN" hereof, respectively.

COUNT FOUR - CHAIN CONSPIRACY

On, or about, June 16, 1994, in Fayette County, Kentucky, and/or Jessamine County, Kentucky, the Defendants Vaughan, Kelly, and SCC Does 1 through 50 (known only as that group of individual "persons" at the Southland Church of Lexington, Inc., and "associated-in-fact") joined in the furtherance of that "chain conspiracy" as outlined in hereinabove "COUNTS TWO & THREE" by committing specific acts in furtherance thereof in that manner as set forth in...¶¶E-41, E-42, E-46, E-48, & E-50 together with all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which said "chain conspiracy" ultimately resulted in the commission of those "overt acts" as detailed in hereinafter "COUNTS FIVE, SIX, SEVEN, EIGHT, NINE, TEN, & THIRTEEN"; "unlawful imprisonment" of Akers as detailed in hereinafter "COUNTS ELEVEN & FOURTEEN"; and injuries to Akers in his person and his property as detailed in hereinafter "COUNTS

TWENTY-FOUR through TWENTY-SEVEN".

COUNT FIVE - OVERT ACTS/
FEDERAL JURISDICTION INVOKED

On, or about, October 28, 1994, in Fayette County and/or Jessamine County, Kentucky, the Defendants Bishop, Fleming, Rushing, CBT Does 1 through 40 (known only as that group of "persons" at Central Bank & Trust Company, Inc., "associated-in-fact"), Layne, Shannon, Kelly, SCC Does 1 through 50 (known only as that group of "persons" at Southland Christian Church of Lexington, Inc., and "associated-in-fact"), collectively and in concert each with another, with a common scheme and purpose, devised, implemented, and effectuated an intentional course of conduct in furtherance of hereinabove "COUNTS TWO through FOUR", with the intent to deprive Plaintiff Akers of his rights, privileges, and immunities secured by, *inter alia*, Article I-Section 9 [Cl. 1], Article IV-Section 2 [Cl. 1], of the United States Constitution and the Fourth, Fifth, & Fourteenth Amendments thereto and, in addition thereto, *inter alia*, Article 1, Sections 3, 8, & 14 of the Constitution of Tennessee, by committing specific "overt acts" in furtherance thereof and in the manner as set forth in...¶¶E-51, E-54, E-56 through E-58, & E-61 through E-68 and all footnotes thereto, respectively, of Akers' Memorandum; and which said "overt acts" ultimately resulted in the "unlawful imprisonment" as detailed in hereinafter "COUNTS ELEVEN & FOURTEEN"; and those injuries to Akers in his person and his property as detailed in hereinafter "COUNTS TWENTY-FOUR & TWENTY-SIX".

COUNT SIX - OVERT ACTS/
FEDERAL JURISDICTION INVOKED

On, or about, March 21, 1995, in Fayette County and/or Jessamine County, Kentucky, the Defendants Witt and FCS Does 1 through 30 (known only as a group of "persons" at the Fayette County Sheriff's office and

"associated-in-fact") joined in the furtherance of that "collective and concerted common scheme and purpose" and/or "chain conspiracy" as outlined in hereinabove "COUNT FOUR" by committing specific "overt acts" in furtherance thereof in that manner set forth in...¶¶E-61, E-63, E-77, & E-79 and all footnotes thereto, respectively, of Akers' Memorandum; and which said "overt acts" ultimately resulted in "unlawful imprisonment" of Akers as detailed in hereinafter "COUNTS ELEVEN & FOURTEEN" and injuries to Akers in his person and his property as detailed in hereinafter "COUNTS TWENTY-FOUR & TWENTY-SIX".

COUNT SEVEN - OVERT ACTS/
FEDERAL JURISDICTION INVOKED

On, or about, March 21, 1995, in Fayette County and/or Jessamine County, Kentucky, the Defendants Clark, LFG Does 1 through 60 (known only as that group of "persons" at the Lexington-Fayette Urban County Government, "associated-in-fact"), and CAO Does 1 through 20 (known only as that group of "persons" at the Office of the Commonwealth's Attorney for the Twenty-second Judicial District of Kentucky, "associated- in-fact") joined in the furtherance of that "collective and concerted common scheme and purpose" and/or "chain conspiracy" as outlined in "COUNTS FOUR through SIX" hereinabove by committing specific "overt acts" in furtherance thereof in that manner set forth in...¶¶E-61, E-63, E-77, & E-79 together with all footnotes thereto, respectively, of Akers' Memorandum; and which said "overt acts" ultimately resulted in the "unlawful imprisonment" of Akers as detailed in "COUNTS ELEVEN & FOURTEEN" hereof and injuries to Akers in his person and his property as detailed in hereinafter "COUNTS TWENTY-FOUR & TWENTY-SIX".

COUNT EIGHT - OVERT ACTS/
FEDERAL JURISDICTION INVOKED

On, or about, November 1, 1995, in Fayette County, Kentucky, Defendant Red Corn joined in the "chain conspiracy" as detailed in hereinabove "COUNTS ONE through FOUR" and the aforesaid "collective and concerted common scheme and purpose" as detailed in hereinabove "COUNTS FIVE, SIX, and SEVEN" by committing specific "overt acts" in the furtherance thereof in that manner set forth in...¶¶E-82, E-83, E-84, E-85, E-86.I through E-86.X, E-89, E-90(a), E-90(b), E-90(d), E-92, E-94, & E-96 together with all footnotes thereto, respectively, of Akers' Memorandum; and which said "overt acts" ultimately resulted in "unlawful imprisonment" of Akers as detailed in hereinafter "COUNTS ELEVEN & FOURTEEN" and injuries to Akers in his person and property as detailed in "COUNTS TWENTY-FOUR through TWENTY-SEVEN" hereof.

COUNT NINE - OVERT ACTS/
FEDERAL JURISDICTION INVOKED

On, or about, November 1, 1995, in Fayette County, Kentucky, the herein Defendant Overstreet joined in that "chain conspiracy" as detailed in hereinabove "COUNTS ONE through FOUR" and that "collective and concerted common scheme and purpose" as detailed in hereinabove "COUNTS FIVE through EIGHT" by committing specific "overt acts" in the furtherance thereof in that manner set forth in...¶¶E-81, E-82, E-84, E-86.I through E-86.X, E-87, & E-88 and all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which said "overt acts" ultimately resulted in the "unlawful imprisonment" of Akers as detailed in "COUNTS ELEVEN & FOURTEEN" hereinafter and injuries to Akers in his person and property as detailed in "COUNTS TWENTY-FOUR through TWENTY-SEVEN" hereinafter.

COUNT TEN - OVERT ACTS/
FEDERAL JURISDICTION INVOKED

On, or about, March 5, 1997, in Franklin and/or Fayette County, Kentucky, Defendant Schwartz joined in that "chain conspiracy" as detailed in hereinabove "COUNTS ONE through FOUR" and "collective and concerted common scheme and purpose" detailed in hereinabove "COUNTS through EIGHT" by committing specific "overt acts" in the furtherance of those "conspiracies" and "overt acts" in furtherance thereof in that manner set forth in...¶¶E-91 & E-93 and all footnotes thereto, respectively, of Akers' Memorandum; and which said "overt acts" further contributed to the "unlawful imprisonment" of Akers and injuries to Akers in his person and in his property as detailed in "COUNTS TWENTY-FOUR through TWENTY-SEVEN" hereinafter.

COUNT ELEVEN - UNLAWFUL IMPRISONMENT

As the proximate result of those "conspiracies" and "chain conspiracies" detailed in hereinabove "COUNTS ONE through FOUR", and those "overt acts" in furtherance thereof as detailed in hereinabove "COUNTS FIVE through TEN", Akers was unlawfully imprisoned an aggregate of SEVEN HUNDRED TWENTY-EIGHT (728) DAYS in custody of the Fayette County [Kentucky] Sheriff, Davidson County [Tennessee] Sheriff, and Kentucky Department of Corrections, respectively, and thereby injured in his person and in his property in that manner detailed in...¶¶122(b), 125, & 126 of Akers Memorandum, all in violation of TITLE 18 U.S.C. §§ 1983 & 1985, *inter alia*.

COUNT TWELVE - CHAIN CONSPIRACY/COVER-UP

Beginning on, or about, February 27, 1998, and, then, continuing through July 7, 2000, in Fayette County, Jessamine County, and/or Franklin County, Kentucky, Defendants Bishop, Fleming, CBT Does 1 through 40 (known only as that group of "persons" at Central Bank

& Trust Company, Inc., "associated-in-fact"), Layne, Shannon, SCC Does 1 through 50 (known only as a group of "persons" at Southland Church of Lexington, Inc., and "associated-in-fact"), Vaughan, Red Corn, Overstreet, & Ferguson engaged in an intentional and continuing course of conduct in the furtherance of those "conspiracies" and/or "chain conspiracies" as detailed hereinabove "COUNTS ONE through FOUR", and those "overt acts" in furtherance thereof as detailed in hereinabove "COUNTS FIVE through TEN", by committing additional "overt acts" in furtherance and covert concealment thereof as detailed in...¶¶E-97, E-98, E-99, E-103, E-104, E-106, E-107, E-108, E-110.I through E-110.X, E-111 through E-117, E-119, & E-121 and all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which such "overt acts" resulted in the further "unlawful imprisonment" of Akers as detailed in hereinabove "COUNT FOURTEEN" and those further injuries to Akers in his person and his property detailed in hereinafter "COUNTS TWENTY-FIVE & TWENTY-SIX", all in violation of TITLE 18 U.S.C. §§ 1983 & 1985, *inter alia*.

COUNT THIRTEEN - FURTHER OVERTACTS/ COVER-UP

At some time after October 28, [1998], in Fayette County, Kentucky, FCC Does 1 through 10 (known only as a group of "persons" at the Office of the Fayette [Kentucky] County Court Clerk, and "associated- in-fact") joined in that "further chain conspiracy" as detailed in hereinabove 'COUNT TWELVE' by engaging in an intentional and continuing course of conduct in furtherance thereof by committing additional "overt acts" in the furtherance and covert concealment thereof by fraudulently redacting that portion of the "official state court record" as detailed in...¶¶E-110.V(k) of Akers Memorandum, thereby contributing to "unlawful imprisonment" of Akers as detailed in hereinabove "COUNT FOURTEEN" and further injuries to Akers in

his person and property as detailed in hereinafter 'COUNTS TWENTY-FIVE & TWENTY-SIX', in violation of TITLE 18 U.S.C. §§ 1983 & 1985, *inter alia*.

COUNT FOURTEEN - UNLAWFUL IMPRISONMENT

As the proximate result of those "conspiracies" & "chain conspiracies" detailed in hereinabove "COUNTS ONE through FOUR"; and "overt acts" in the furtherance thereof as detailed in hereinabove "COUNTS FIVE, SIX, SEVEN, EIGHT, TEN, & TWELVE", Akers was again "unlawfully imprisoned" in an aggregate of SIX HUNDRED SEVEN (607) DAYS in custody of the Fayette County [Kentucky] Sheriff and, subsequently, the Kentucky Department of Corrections, and thereby still further injured in his person and his property in that manner as detailed in ¶¶122(b), 125, & 126 of Akers' Memorandum, all in violation of TITLE 18 U.S.C. §§ 1983 & 1985, *inter alia*.

COUNT FIFTEEN - R.I.C.O. VIOLATIONS

In the course thereof hereinabove "COUNTS TWO, FIVE, ELEVEN, TWELVE, & FOURTEEN", Defendants Bishop, Fleming, Layne, and SCC Does 1 through 50 (known only as that group of "persons" at the Southland Christian Church of Lexington, Inc., "associated-in-fact"), collectively and in concert each with another, with common scheme and purpose, devised, effectuated, and/or otherwise participated in and, thereby, committed two or more "predicate acts" constituting a "pattern" of "racketeering activity" as enumerated in subparagraphs (a) through (d) hereinafter; and used income derived therefrom to acquire, maintain interests in, and/or participate in the conduct of the affairs of the "enterprises" known as Southland Christian Church of Lexington, Inc., and "Association-in-fact" (comprised of all the hereinabove "persons" named as "Defendants" herein, both jointly and severally, and "associated-in-fact") through a "pattern of racketeering activity"; the "activities" of

which said "enterprises" having and maintaining affects on both "interstate commerce" and "foreign commerce" at all times relevant hereto; all in violation of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific said "predicate acts" are as follows:

> (a) On or about May 12, 1994, in Fayette County, Kentucky, Defendants Bishop, Fleming, Layne, and SCC Does 1 through 50 (known only as a group of "persons" at Southland Christian Church of Lexington, Inc., and herein "associated-in-fact"), collectively and in concert each with another, with a common scheme and purpose, devised, effectuated, and/or otherwise participated in the commission of "kidnaping" (in violation of Title 18 U.S.C. § 1201 and K.R.S. 508.130) in preparation for the hereinafter predicate acts depicted "COUNT FIFTEEN(b) & (c)" in that manner as set forth in...¶¶E-31, E-32, E-34, & E-38 together with all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which such "predicate act" ultimately resulted in injuries to Akers in his businesses and property as detailed in...¶¶125 & 127 of Akers' Memorandum;
>
> (b) From about May 12, 1994 until June 29, 1994, in both Fayette County, Kentucky, Jessamine County, Kentucky, and/or Centre City, Minnesota, Defendants Bishop, Fleming, Layne, and SCC Does 1 through 50 (known only as that group of persons at the Southland Christian Church of Lexington, Inc., herein "associated-in-fact"), acting collectively and in concert one with the other, in covert preparation for that further predicate act depicted as hereinafter "COUNT FIFTEEN(c)", and with common scheme and purpose, devised, implemented, effectuated, or otherwise participated in, the predicate act of "unlawful imprisonment" of Akers (in violation of K.R.S.

509.020 and, therefore, as well in violation of Title 18 U.S.C. §§ 1961(1) & 1962(a)) in that manner detailed in...¶¶E-31, E-32, E-34, & E-38 with all corresponding footnotes thereto, respectively, of Akers' Memorandum; and which "predicate act" ultimately resulted in injuries to Akers in his person, businesses, and property further detailed in...¶¶125 & 127 of Akers' Memorandum;

(c) On, or about, June 28, 1994, in Fayette and/or Jessamine County, Kentucky, the Defendants Bishop, Fleming, Layne, and SCC Does 1 through 50 (known only as a group of "persons" at the Southland Christian Church of Lexington, Inc., "associated-in-fact"), acting collectively and in concert each with another, with a common scheme and purpose, devised, effectuated, and/or otherwise participated in the additional predicate act of "theft by unlawful taking or disposition" of certain property of Akers and Coleman/Akers & Akers, Inc. (C/AA) valued in excess of $300.00 (in violation of K.R.S. 514.030 and, therefore, in violation of Title 18 U.S.C. §§ 1961(1) & 1962(a)) in that manner as is set forth in...¶E-43 together with FN55 & FN56 thereto, respectively, of Akers' Memorandum; and which said "predicate act" ultimately resulted in injuries to Akers in his businesses and property as are detailed in...¶¶125 & 127 of Akers' Memorandum; &

(d) On or about June 28, 1994, in Fayette County, Kentucky, and Jessamine County, Kentucky, Defendants Bishop, Fleming, Layne, and SCC Does 1 through 50 (known only as that group of "persons" at Southland Christian Church of Lexington, Inc., and "associated-in-fact"), acting collectively and in concert each with the other, with a common scheme and purpose, devised, effectuated, and/or participated in, the

further predicate act of "tampering with physical evidence" (in violation of Title 18 U.S.C. § 1512 & K.R.S. 514.030 and, therefore, in violation of Title 18 U.S.C. §§ 1961(1) & 1962(a)) in that manner set forth in...¶E-43 together with corresponding FN55 & FN56, respectively, of Akers' Memorandum; and which "predicate act" ultimately resulted in those injuries to Akers in his person, property, and businesses as detailed in...¶¶125 & 127 of Akers' Memorandum.

COUNT SIXTEEN - R.I.C.O. VIOLATIONS

In the course thereof those hereinabove "COUNTS TWO, FIVE, ELEVEN, TWELVE, & FOURTEEN", Defendants Bishop, Fleming, and Vaughan, acting collectively and in concert each with the other, with a common scheme and purpose, devised, effectuated, and/or participated in and, thereby, committed those two or more "predicate acts" constituting a "pattern" of "racketeering activity" as are enumerated in subparagraph (a) hereinafter; used income derived therefrom to acquire and/or maintain interests in and/or participate in conduct of the affairs of the "enterprises" known as "Dr. John J. Vaughan, M. D.", and the "Association-in-fact" (comprised of all those hereinabove "persons" named as "Defendants" herein, both jointly and severally, corporately and individually, and "associated-in-fact") through such a "pattern" of "racketeering activity"; and the "activities" of those said "enterprises" having maintained affects on both "interstate commerce" and "foreign commerce" at all times relevant hereto, all in violation of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific such "predicate acts" are enumerated as follows:

(a) Beginning on, or about, June 16, 1994, in Fayette County, Kentucky, Defendants Bishop, Fleming, and Vaughan, proceeding in concert each with the other, with common scheme and purpose, devised, effectuated, implemented, or otherwise participated in, commission

of the predicate acts of "wire fraud" (in violation of Title 18 U.S.C. § 1341) and "mail fraud" (in violation of Title 18 U.S.C. § 1343) in that manner as set forth in...¶¶E-2, E-8, E-28, E-35, E-36, E-41, E-42, E-48, & E-48 together with all corresponding footnotes thereto, respectively, of Memorandum; and which such "predicate acts" resulted in injuries to Akers' businesses and property as detailed in...¶¶125 & 127 of Akers' Memorandum.

COUNT SEVENTEEN - R.I.C.O. VIOLATIONS

In the course thereof hereinabove "COUNTS TWO, FIVE, ELEVEN, TWELVE, & FOURTEEN", Defendants Bishop, Fleming, and Kelly, collectively and in concert each with the other, with a common scheme and purpose, jointly devised, implemented, effectuated, and/or otherwise participated in, and thereby committed two or more "predicate acts" constituting a "pattern" of "racketeering activity" as enumerated in hereinafter subparagraph (a); in attempt to derive funds therefrom for use in acquisition of, maintaining interests in, and/or participating in the conduct of the affairs of the "enterprise" known as the "Association-in-fact" (comprised of all hereinabove "persons" named as "Defendants" herein, both jointly and severally, both corporately and individually, and "associated-in-fact") through such a "pattern" of "racketeering activity"; the "activities" of which said "enterprises" having had and maintained affects on "interstate and foreign commerce" at all times relevant hereto; all in violation of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific such "predicate acts" are enumerated as follows:

(a) On, or about, September 23, 1994, in Fayette County, Kentucky, Defendants Bishop, Fleming, and/or Kelly, collectively and in concert each with another, with common scheme and purpose, devised, effectuated, or otherwise participated in the commission of "forgery in the second degree" (in violation of K.R.S. 516.030), and "theft by extortion" (in violation of K.R.S.

514.040), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in that manner set forth in...¶¶E-50 together with FN62 of Akers' Memorandum; and which said "predicate acts" resulted in injuries to Akers' businesses and property as detailed in...¶¶125 & 127 Akers' Memorandum.

COUNT EIGHTEEN - R.I.C.O. VIOLATIONS

In the course thereof the hereinabove "COUNTS TWO, FIVE, ELEVEN, TWELVE, & FOURTEEN', Defendants Bishop & Rushing, acting in concert each with another, with a common scheme and purpose, devised and/or effectuated and, thereby, committed two or more "predicate acts" constituting a "pattern" of "racketeering activity" as are enumerated in subparagraph (a) hereinafter, in an overt attempt to use income derived therefrom in the acquisition of, maintaining interests in, and/or otherwise participating in conduct of the affairs of the "enterprise" known only as the "Association-in-fact" (comprised of all hereinabove "persons" named as Defendants herein, jointly and severally, and "associated-in-fact") through a "pattern" of "racketeering activity"; the "activities" of which said "enterprise" both having and maintaining affects on "interstate commerce" and "foreign commerce" at all times relevant hereto; all in violation of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific such "predicate acts" are enumerated as follows:

(a) Beginning on, or about, October 23, 1994, via interstate telephonic communications between Fayette County, Kentucky, and Williamson County, Tennessee, Defendants Bishop and Rushing, acting in concert each with the other, with a common scheme and purpose, devised, effectuated, and/or otherwise participated in commission of the two and distinctly separate "predicate acts" of "blackmail" (in violation of Title 18 U.S.C. § 873); and "extortion" (in violation of Title 18 U.S.C. §

875), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in that manner set forth in...¶E-56 and FN67 of Akers' Memorandum; and which "predicate acts" resulted in injuries to Akers' businesses and property as detailed in ...¶¶125 & 127 of Akers' Memorandum.

COUNT NINETEEN - R.I.C.O. VIOLATIONS

In the course thereof the hereinabove "COUNTS ONE, TWO, FIVE, ELEVEN, TWELVE, & FOURTEEN through EIGHTEEN', the Defendant Red Corn joined in those "chain conspiracies", "conspiracies', and "overt acts" in the furtherance and concealment thereof, on, or about, November 1, 1995, in Fayette County, Kentucky and/or Jessamine County, Kentucky; and acting both independently and in concert with those other Defendants named herein, with a common scheme and purpose, jointly devised, implemented, effectuated, and/or otherwise participated in and, thereby, committed two or more "predicate acts" constituting a "pattern" of "racketeering activity" as are enumerated in hereinafter subparagraph (a) through (d); having derived funds therefrom and attempting to derive additional funds therefrom for her use in the acquisition of, maintaining interests in, and/or participating in the conduct of the affairs of the "enterprise" known herein only as the "Association-in-fact" (comprised of all hereinabove "persons" named as Defendants herein, both jointly and severally, as herein "associated-in-fact") through such a "pattern" of "racketeering activity"; and the "activities" of which having affects on "interstate and/or foreign commerce" at all times relevant hereto; all in violation of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific such "predicate acts" are enumerated as follows:

(a) On, or about, November 6, 1995, in Fayette County, Kentucky, Defendant Red Corn collaborated with, unlawfully assisted, influenced, and/or directed Defendant Bishop in fraudulent testimony before the Fayette County

[Kentucky] Grand Jury and, therefore, acted in concert with Bishop, with a common scheme and purpose, in effectuating and/or participating in commission of the "predicate acts" of "tampering with a witness" (in violation of TITLE 18 U.S.C. § 1512) and "influencing [a] juror generally" (in violation of TITLE 18 U.S.C. § 1503), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in that manner set forth in...¶¶E-81 & E-82 with FN81 & FN82 thereto, respectively, of Akers' Memorandum; and which "predicate acts" ultimately resulted in injuries to Akers in his businesses and in his as detailed in...¶¶ 125 & 127 of Akers' Memorandum;

(b) In about mid-May, 1995, in Fayette County, Kentucky, via telephonic communications to Pulaski County, Kentucky, the Defendant Red Corn committed the "predicate act" of "tampering with a witness" (in violation of TITLE 18 U.S.C. § 1512), thereby violating provisions of TITLE 18 U.S.C. §§ 1961 & 1962, in that manner as set forth in...¶E-86.I(a) and FN85 thereto of Akers' Memorandum; and which said "predicate act" further resulted in injuries to Akers in his businesses and property as detailed in...¶127 of Akers' Memorandum;

(c) On May 20 through May 22, 1995, in Fayette County, Kentucky, the Defendant Red Corn committed numerous of the "predicate acts" of "tampering with a witness" (in violation of TITLE 18 U.S.C. § 1512) and "influencing [a] juror generally" (in violation of TITLE 18 U.S.C. § 1503), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in those manners set forth in...¶¶E-86.II through E-86.VIII and FN86 thru FN93, respectively, of Akers' Memorandum; and which additional "predicate acts" resulted in further injuries to Akers' businesses and property detailed in...¶127 of Akers'

Memorandum; &

(d) On October 26 through 28, 1998, in Fayette County, Kentucky, the Defendant Red Corn committed numerous of the "predicate acts" of "tampering with a witness" (in violation of TITLE 18 U.S.C. § 1512) and "influencing [a] juror generally" (in violation of TITLE 18 U.S.C. § 1503), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in the manners set forth in...¶¶E-110.III through E-110.VII, E-110.IX, & E-110.X together with N106 through FN126 thereto, respectively, of Akers' Memorandum; and which such additional "predicate acts" resulted in injuries to Akers' businesses and his property as detailed in...¶127 of Akers' Memorandum.

COUNT TWENTY - R.I.C.O. VIOLATIONS

In the course thereof hereinabove "COUNTS ONE, TWO, FIVE, ELEVEN, TWELVE, & FOURTEEN through EIGHTEEN", the Defendant Overstreet joined in those "chain conspiracies', "conspiracies", and "overt acts" in the furtherance and concealment thereof on, or about, November 10, 1995, in Fayette County and/or Jessamine County, Kentucky, and acting both independently and in concert/consortium with those other Defendants named herein, with a common scheme and purpose, jointly devised, implemented, effectuated, and/or otherwise participated in and, thereby, committed two or more "predicate acts" constituting a "pattern" of "racketeering activity", as are enumerated in hereinafter subparagraphs (a) & (b); and, having derived funds therefrom in covert attempt to derive additional funds therefrom for her use in the acquisition of, maintaining interests in, and/or participating in the conduct of the affairs of the "enterprise" known as the "Association-in-fact" (comprised of all hereinabove "persons" named as Defendants herein, both jointly and severally, and herein "associated-in-fact") through such a "pattern" of "racketeering activity"; the "activities" of

which "enterprise" maintaining affects on "interstate commerce" and/or "foreign commerce" at all times relevant hereto; all in violation of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific such "predicate acts" are enumerated as follows:

> (a) On May 20 through May 22, 1995, in Fayette County, Kentucky, the Defendant Overstreet committed two or more of the "predicate acts" of "tampering with a witness" (in violation of TITLE 18 U.S.C. § 1512) and "influencing [a] juror generally" (in violation of TITLE 18 U.S.C. § 1503), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in those manners set forth in...¶¶E-86.II through E-86.VIII with FN86 thru FN93, respectively, of Akers' Memorandum; and which additional "predicate acts" resulted in further injuries to Akers' businesses and property as detailed in...¶127 of Akers' Memorandum; &
>
> (b) On October 26 through 28, 1998, in Fayette County, Kentucky, the Defendant Overstreet committed two or more "predicate acts" of "tampering with a witness" (in violation of TITLE 18 U.S.C. § 1512) and "influencing [a] juror generally" (in violation of TITLE 18 U.S.C. § 1503), both being violations of TITLE 18 U.S.C. §§ 1961 & 1962, in the manners set forth in...¶¶E-110.III thru E-110.VII, E-110.IX, & E-110.X together with FN106 through FN126, respectively, of Akers' Memorandum; and which additional "predicate acts" resulted in further injuries to Akers' businesses and/or property as detailed in...¶127of Akers' Memorandum.

COUNT TWENTY-ONE - R.I.C.O. VIOLATIONS

On, or about, September 2, 1998, in Fayette County, Kentucky, and/or Williamson County, Tennessee, and/or via telephonic communications there

between, Defendants Red Corn, Overstreet, and Williams, acting both independently and in consortium each with another, engaged in an intentional course of conduct directed at Akers, with common scheme and/or purpose, participated in and, thereby, committed two or more of the "predicate acts" constituting a "pattern" of "racketeering activity" as enumerated in hereinafter subparagraph (a) through (c); having derived funds therefrom, and attempting to derive additional funds therefrom, for use in the acquisition of and/or maintaining interests in, or otherwise participating in conduct of the affairs of the "enterprises" known as "Ernest W. Williams, Attorney-at-law" and the "Association-in-fact" (comprised of all those hereinabove "persons" named as Defendants herein, both jointly and severally, "associated-in-fact") through a "pattern" of such "racketeering activity"; the "activities" of each of the such "enterprises" having and maintaining affects on "interstate and/or foreign commerce" at all times relevant hereto; all in violation of TITLE 18 U.S.C. §§ 1961 & 1962; and each such "predicate act" depicted as "COUNT TWENTY-ONE(a), (b), & (c)" hereof being violations of TITLE 18 U.S.C. §§ 1961 & 1962. Those specific such "predicate acts" are enumerated hereinafter as follows:

(a) "Blackmail" (in violation of Title 18 U.S.C. §§ 2, 3, 5, & 873, *inter alia*, and TITLE 18 U.S.C. §§ 1961 & 1962), in that manner as set forth in...¶¶E-106 & E-107 and FN106 thereto of Akers' Memorandum ; and which "predicate act" further enhanced injuries to Akers in his businesses and property as detailed in...¶127 of Akers' Memorandum;

(b) "Extortion" (in violation of Title 18 U.S.C. §§ 2, 3, 5, & 875, *inter alia*, and TITLE 18 U.S.C. §§ 1961 & 1962), in that manner as set forth in...¶¶E-106 & E-107 together with FN106 thereto of Akers' Memorandum; and which "predicate act" further enhanced injuries to

Akers' businesses and property as detailed in...¶127 of Akers' Memorandum; &

(c) "Civil rights intimidation" (in violation of Tennessee Code Annotated 39-17-309 and, therefore, in violation of TITLE 18 U.S.C. §§ 1961 & 1962) in that manner as set forth in...¶¶E-106 & E-107 together with corresponding FN106 of Akers' Memorandum; and which such "predicate act" further enhanced injuries to Akers' businesses and property as detailed in...¶127 of Akers' Memorandum.

COUNT TWENTY-TWO - FINAL OVERT ACTS/ COVER-UP

On, or about, March 30, 2000, in Fayette County, Kentucky, the Defendants Bishop, Fleming, Layne, and Witt continued in those "conspiracies" and "chain conspiracies" as detailed in hereinabove "COUNTS TWO, THREE, & FOUR"; and "overt acts" in the furtherance and concealment thereof as detailed in "COUNTS FIVE, SIX through TEN, & THIRTEEN"; and in the concealment of those "R.I.C.O. Violations" as detailed in hereinabove "COUNTS FIFTEEN through TWENTY-ONE", by conspiring to, participating in, and/or otherwise effectuating schemes to further deprive Akers of privileges and immunities secured by, *inter alia*, Article I-Section 9 [Cl. 2], Article I-Section 10 [Cl. 1], Article IV-Section 2 [Cl. 1], and the First, Fourth, Fifth, Sixth, & Fourteenth Amendments of/to the Constitution of the United States of America and Article 1, Sections 8 & 10 of the Constitution of Tennessee; were joined in that "conspiracy" and "final overt acts" in furtherance thereof by Defendant Goodwine on April 13, 2000, in that manner set forth in...¶E-118 together with FN133 thereto, respectively, of Akers' Memorandum; and which "final overt acts" further enhanced injuries to Akers in his person, property, and businesses as detailed in...¶127 of Akers' Memorandum; all in violation of Title 42 U.S.C. §§ 1983 and 1985(3), *inter alia*.

COUNT TWENTY-THREE - FINAL COVER-UP

On, or about, May 19, 2000, in Fayette County, Kentucky, the Defendants Bishop, Red Corn, and Overstreet, *inter alia*, conspired to covertly "conceal" those "conspiracies" and "chain conspiracies" as detailed in hereinabove "COUNTS ONE, TWO, THREE, & FOUR"; "overt acts" in the furtherance thereof as detailed in "COUNTS FIVE, SIX through TEN, & THIRTEEN"; "unlawful imprisonment" of Akers as detailed in hereinabove "COUNTS ELEVEN & FOURTEEN"; and "R.I.C.O. Violations" detailed in hereinabove "COUNTS FIFTEEN through TWENTY-ONE", in that manner as detailed in...¶¶E-121 through E-124 with FN135 & FN136, respectively, of Akers' Memorandum; and which additional "overt acts" further enhanced the injuries to Akers in his person, property, and businesses as detailed in... ¶126 & 127 of Akers' Memorandum; all in violation of Title 42 U.S.C. §§ 1983 and 1985(3). [D.E. #1, pages 96 - 123]

The underlying "criminal" cases originate from a series of events leading to what, **at its worst**, could be legally construed as nothing more than a misdemeanor "assault under extreme emotional disturbance" [see. e.g., Case No. 5:02cv0162, D.E. #29, ¶ 7(b) & FN7 thereto, i.e., "**Even under Kentucky law (particularly K.R.S. 508.040)**, Akers' so-called act of 'assault' of Bishop was punishable for only **a maximum fine of $250 and/or 90-day sentence in the county jail** [see 'OFFENSE, PENALTY AND BAIL SCHEDULE', APPENDIX A, Kentucky Rules of Court, 1995, West Publishing Company, November 1, 1994] absent unconstitutional ***'ex post facto'* enhancement** under the disguise of implementing, evolutionizing, and/or 'testing the mettle' of Kentucky's newly-enacted/enhanced 'Domestic Violence & Abuse' laws and, **only then, if proceedings had been initiated within the one (1) year statutory period required by K.R.S. 500.050(2).**" [see also, e.g., Akers' "Motion for Reconsideration", as filed in this Court [Case No. 01-o6243] on December 10, 2001, FN8, page 12 thereof]. Moreover, **there can be absolutely no question** that Akers had been - **at least twice**

- **already fully-punished** for the events of May 4th and/or 5th, 1994 [see, e.g., Akers' Memorandum, Exhibit 02-6235-11, Joint Appendix at pages 538-593, ¶¶ E-34 w/FN44 thereto, E-37, E-38 w/FN49 thru FN53 thereto, E-51 w/FN81 thereto, & 81 w/FN76 thru FN82 thereto]. Not even considering the elements of malice, abuse of process, and fraud, ***inter alia***, Akers' convictions for **any charge** related to May 4th/5th, 1994, **was barred** by either the statute of limitations **and/or** the Fifth Amendment to the U.S. Constitution. Akers' conviction "First-Degree Stalking" is **even more easily defeated**, i.e., (1) there were no charges against Akers at the time he migrated back to Tennessee on September 23, 1994 [***id.***, ¶ E-51 w/FN63 thereto]; (2) thereafter, Akers did not voluntarily return **to any jurisdiction within Kentucky** and there is no allegation to the contrary [***id.***, ¶ E-54 w/FN64 & FN65 thereto]; (3) Akers never made **even a single threat of "serious physical injury or death" to Bishop or anyone else** - only "threats" of a civil law suit - **while within the State of Tennessee** [***id.***, ¶¶ E-56 thru E-64 w/FN66 thru FN69 thereto, FN72, & FN75]; (4) Akers' acts were lawful within the State of Tennessee [***id.***, ¶ E-60 w/FN69 thereto]; (5) **Akers acts were not cognizable under Kentucky Law** [see: K.R.S. 500.060 Territorial applicability", ***id.***, page 31, w/FN65 thereto]; & (6) **in essence**, Akers was convicted for violating a "protective order" **with which he had not been served and was not even aware of**, in **blatant violation of the Fourteenth Amendment to the U.S. Constitution** [***id.***, ¶¶ E-65 & E-66 w/FN70 thereto]. **Clearly, there were no actionable "criminal" bases for any manner of "assault" or "stalking"** charges against Akers and therefore, **there could have been no jurisdiction**.

In view of the foregoing, **it is incomprehensible** that the Federal Courts could conclude that can state no claim entitling him to relief under Federal law - **or that the "ends of justice" require Akers to ever return to any jurisdiction in the Commonwealth of Kentucky** - thereby placing himself in peril of **"more of the same" tyranny and oppression** of/by the herein Defendants-Respondents in violation of the Constitution and Laws of the United States.

ARGUMENT(S)

I - THE "ENDS OF JUSTICE" REQUIRE RE-TRANSFER OF VENUE BACK TO UNITED STATES DISTRICT COURT FOR MIDDLE TENNESSEE DISTRICT-NASHVILLE DIVISION;

II - THE LOWER COURTS ABUSED THEIR DISCRETION BY REFUSING TO "GRANT" AKERS' "DEMAND FOR JUDGEMENT BY DEFAULT" & "MOTION FOR PARTIAL SUMMARY JUDGEMENT";

III - THE LOWER COURTS ERRED BY APPLYING THE *HECK V. HUMPHREY* AND *ROOKER-FELDMAN* DOCTRINES AS GROUNDS FOR DISMISSAL OF THE CASE FOR "FAILURE TO STATE A CLAIM";

IV - THE LOWER COURTS ERRED BY APPLYING VARIOUS IMMUNITIES AS GROUNDS FOR DISMISSAL OF THE ENTIRE CASE;

V - THE LOWER COURTS ERRED BY THEIR APPLICATION OF "COLLATERAL ESTOPPEL"/RES JUDICATA AS GROUNDS FOR DISMISSAL OF THE CASE FOR "FAILURE TO STATE A CLAIM";

VI - THE LOWER COURTS ABUSED THEIR DISCRETION BY REFUSING TO APPLY REQUIRED "STANDARD OF REVIEW WITH RESPECT TO THE DEFENDANTS' "MOTION(S) TO DISMISS";

VII - THE LOWER COURTS ABUSED THEIR DISCRETION IN THE DENIAL OF AKERS' FUNDAMENTAL RIGHTS TO A TRIAL BY JURY AS THE ULTIMATE FINDER OF FACT;

VIII - THE HEREIN CASE SHOULD HAVE, ALTERNATIVELY, BEEN HELD "IN ABEYANCE" PENDING FILING AND DISPOSITION OF AKERS'

PETITION FOR WRIT OF PROHIBITION AND/OR PETITION FOR WRIT OF MANDAMUS WITH THIS HONORABLE COURT, SEEKING TO SET ASIDE HIS CONVICTIONS AS UNCONSTITUTIONAL; &

IX - THE SIXTH CIRCUIT COURT OF APPEALS ABUSED ITS DISCRETION BY REFUSING TO FILE AKERS' "PETITION FOR EN BANC DETERMINATION PURSUANT TO F.R.A.P. 26(a) & (c), F.R.A.P. 40(a)(1), 6 CIR. R. 45(b), AND "DUE PROCESS CLAUSE" OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

Each and every one of those above "ARGUMENTS" have been extensively addressed within Akers' previous pleadings and/or briefs within the Federal Courts [see herewith "APPENDIX" at pages 62 through 422 thereof]. They who have eyes to read - **let them read**; those who have the wisdom to comprehend - **let them comprehend**; and **they who have the integrity to do what is just** under the Constitution and Laws of the United States of America - **let them do what is just**.

Moreover, in view of Supreme Court Rule 33(g), **it would be impossible** for Akers to adequately present those arguments within the confines of this "Petition for Writ of Certiorari". In view of Supreme Court Rule 14.4, it would be foolish for Akers to attempt to summarize those arguments. **The simple truth is** that Akers now has no choice but to trust this Honorable Court to now make the **right decision - based upon the facts, laws, and authorities** cited within Akers' herewith "APPENDIX".

The United States Court of Appeals for the Sixth Circuit **has already failed miserably in Its responsibilities**. This Honorable Supreme Court of the United States **must not likewise fail**, inasmuch as to do so will only perpetuate further dismantling of the United States Constitution, thereby rendering the United States of America no more democratic than Nazi Germany, the Cold War era Soviet Union, and many other civilizations which effectuated their own demise.

CONCLUSION

If **any** fair and impartial finder-of-fact, of **any** fair and impartial tribunal, would simply review the facts of the instant case – **objectively** – it could only be concluded that **an American citizen who is both actually and factually innocent of any criminal act** has been: (a) unlawfully arrested and jailed nine times – **in two different states**; (b) unlawfully imprisoned **twice – for a total of forty-six months**; (c) badgered, bullied, harassed, threatened, blackmailed, extorted, and intimidated, ***inter alia***, **for nearly nine years – all within the jurisdiction of the United States Sixth Circuit**. These atrocities were not the product of "error". The English term "error" conjures up the perception of **unintentional** accident, mistake, and/or inadvertence, and the unconstitutional, criminal, and otherwise unlawful acts by the herein defendants **were anything but unintentional**. To the contrary, those acts were blatant, premeditated, and carefully-calculated conspiracies – in arrogant and omnipotent subversion of the Constitution and laws of the United States of America.

From the decisions rendered by the United States District Court for the Eastern District of Kentucky, Lexington Division, and affirmed by the United States Court of Appeals for the Sixth Circuit, one can only reasonably glean that those courts have chosen to be an integral "part of the problem rather than a part of the solution". Quite, frankly, it further appears that the Sixth Circuit Court of Appeals might even be the "root cause" of the problem by virtue of Its recent "rubber stamp" decisions.

Article I - § 1 of the United States Constitution reads as follows:

> "**All legislative Powers herein granted shall be vested in a Congress of the United States**, which shall consist of a Senate and House of Representatives" (emphasis added);

Article I - § 10 of the United States Constitution makes it abundantly clear:

> "**No state** shall enter into any Treaty, Alliance, or

Confederation; ...pass any ***ex post facto*** Law, or Law impairing Obligation of Contracts, or grant any Title of Nobility" (emphasis added);

Article VI of the United States Constitution further admonishes that:

> "**This Constitution and the Laws of the United States which shall be made in the Pursuance thereof**; ...under the Authority of the United States, **shall be the supreme Authority of the land**; and **the Judges of every State shall be bound thereby**, **any Thing in the Constitution or laws of any State to the Contrary notwithstanding**" (emphasis added); &

Article IV - § 2 of the United States Constitution provides that:

> "**The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several states.**" (emphasis added).

It is clear that only the United States Congress has the authority to enact, amend, and/or repeal Federal Law - **and only within the parameters established by the United States Constitution**. The Federal Courts have only the authority to implement and enforce those Federal laws - **again, within the parameters established by the United States Constitution**. The various state legislatures have only the authority to enact, amend, and/or repeal laws which have been subrogated under Federal law - **once again, within the parameters established by the United States Constitution**. And the state Courts have only the authority to implement and enforce the laws duly-enacted by their respective state legislatures - **yet again, within the parameters established by the United States Constitution**. **No Federal nor state Court, nor any justice thereof**, has authority to ignore, override, undermine, or sanction violations of, the Constitution and Laws of the United States of America.

The Supreme Court Rules set various criteria warranting Its consideration of a petition for writ of certiorari. The instant case precisely presents those required criteria, i.e., **the systematic dismantling of the Constitution and Laws of the United States Constitution** by the state courts within the Sixth Federal Circuit.

Once again, Akers clearly recognizes that the herein case of "JAMES G. AKERS v. CAROLYN P. BISHOP, ***et al***" is a "hot potato" which no one wishes to deal with. Nonetheless, **that is precisely what the Constitution and Laws of the United States of America require**. That is all Akers is asking the Federal Courts to do in this case – **to enforce the Constitution and Laws of the United States of America** and allow "due process of law" to follow its designed course.

WHEREFORE, the Plaintiff-Petitioner, James G. Akers, asks and prays of this Honorable Court to reverse the "ORDER" dismissing the entire case and remand this action back to United States District Court for the Middle Tennessee District-Nashville Division, with specific instructions that "venue" shall remain therein in order that: (A) Akers may proceed without further hindrance, threat, hardship, and/or undue prejudice in prosecution of his "CIVIL ACTION PURSUANT TO: TITLE 18 U.S.C. § 1964(c); TITLE 42 U.S.C. § 1983; & TITLE 42 U.S.C. § 1985(3)"; & (B) the "ends of justice" may be effectively served.

Respectfully submitted,

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